

# **IDAHO GROUND WATER PROTECTION INTERAGENCY COOPERATIVE AGREEMENT**

## **January 2008**

### **I. PARTIES TO THE AGREEMENT**

This agreement is made between the Department of Environmental Quality (“DEQ”), the Idaho Department of Water Resources (“IDWR”), the Idaho Department of Agriculture (“ISDA”), the Idaho Soil Conservation Commission (“ISCC”) and the Idaho Public Health Districts (“Health Districts”) (collectively, the “Parties”). The Idaho Association of Soil Conservation Districts (“IASCD”) is participating through a Memorandum of Understanding (MOU) with ISCC.

This agreement is consistent with the Idaho Ground Water Quality Plan (“GWQP”) which states on page 39 that:

“IDHW-DEQ, IDWR, ISDA, and other appropriate agencies should jointly develop a Memorandum of Understanding (MOU) to clearly define agency roles, enhance cooperative efforts and avoid duplication of efforts whenever possible. ...”

This agreement revises the Idaho Ground Water Protection Interagency Cooperative Agreement of 1996.

A summary of existing DEQ, IDWR, ISDA, Health Districts, and ISCC agency authorities, roles, and responsibilities relative to ground water quality protection and this agreement is provided in Appendix A. This agreement is not intended to change any of the authorities found in Appendix A.

### **II. PURPOSE**

The purpose of this agreement is to facilitate cooperative ground water protection programs among DEQ, IDWR, ISDA, ISCC and the Health Districts. Implementation language is included in this agreement to address ground water protection in a unified manner that will: 1) coordinate activities of agency personnel and available resources; 2) accomplish efficient and effective transfer of information; 3) provide direction for specific ground water protection project and program tasks; 4) provide for implementation of the GWQP policies and other ground water programs; and 5) identify and recommend funding proposals for the protection of ground water quality.

### III. AGREEMENT

The Parties commit to the following activities:

#### A. MONITORING

1. The Parties will conduct ground water quality monitoring and data collection activities in a manner consistent with the GWQP and agency authorities listed in Appendix A.
2. The Parties will ensure that monitoring results are distributed as requested to signatory Parties within an agreed upon timeframe, and to well owners and the general public in a manner consistent with the Idaho public records law (Idaho Code 9-337 through 9-350).
3. The Parties will encourage each agency to conduct monitoring activities in accordance with quality assurance/quality control ("QA/QC") protocols. Appropriate QA/QC protocols may be based on the goals of the monitoring programs.
4. The Parties will collect and maintain locational information and attach an IDWR GPS Site ID tag at each sampled location, if practical, and with the site owner's permission. The importance of GPS Site ID tags is that they provide a locally visible positive identifier for each sampled site.
5. A Ground Water Monitoring Technical Committee ("GWMTC") is established and will be chaired by DEQ. The GWMTC membership will include DEQ, IDWR, and ISDA. Other parties may be invited to participate as members of this committee. The GWMTC will meet as necessary to ensure that its responsibilities are properly addressed. GWMTC responsibilities include the following:
  - a) Provide input to the Agricultural Ground Water Quality Coordination Committee.
  - b) Provide an opportunity to solicit input regarding ongoing and planned ground water monitoring projects and programs at the federal, state, and local levels.
  - c) Coordinate and, where appropriate, consolidate monitoring activities, and identify opportunities to coordinate regional and local monitoring funding and support (including use of staff time and equipment).
  - d) Coordinate responses to contaminant detections.
  - e) Present reports of statewide, regional, local and other monitoring activities, including trends and site-specific results, at GWMTC meetings.
  - f) Coordinate approaches for providing informational assistance for individual well owners.

- g) Consider recommendations from the GWMTC participants to support agency funding proposals for ground water quality monitoring activities.

**B. DATA MANAGEMENT**

1. The Environmental Data Management System (“EDMS”) is promoted as the state’s data management system for housing past, present, and future ground water quality data. Specific IDWR authorities related to EDMS are provided under Item A, page A-8.
2. Other agency databases and the Pacific Northwest Water Quality Data Exchange (“PNWWQX”) may be utilized to provide access to this ground water quality data. The PNWWQX provides access to a comprehensive source of data related to water quality in the Pacific Northwest.
3. The Parties will exchange GIS coverage information. Coverages will be made available as appropriate.

To accomplish the above responsibilities, the Parties will do the following:

- a) Submit ground water quality data with locational information (see item III.A.4 of this agreement) to EDMS at least annually in a format compatible with EDMS. All contributors will retain custodianship and stewardship of data provided. Where there are enforcement and confidentiality concerns, each agency may determine that specific data is not appropriate for transfer into EDMS based on legal review.
- b) Designate a data management contact person who will be responsible for identifying and facilitating the transfer of data to and from EDMS.
- c) Work to ensure that databases are compatible with EDMS to facilitate efficient data transfer.
- d) Identify funding opportunities to assist with data management.
- e) Develop procedures and a schedule to convert electronic or hard-copy ground water quality data in agency files to an electronic format compatible with the appropriate EDMS load module.
- f) Develop interlinked networks such as the PNWWQX that will improve the ability to cooperatively transfer and share data and information. The goal will be to make these links as seamless and transparent as practical.
- g) Review and classify all data to be entered into the EDMS. Data will be reviewed for accuracy and classified as to its level of confidence prior to submitting data to EDMS.

### C. EDUCATION

1. The Parties will share information related to ongoing educational projects and programs, and coordinate such projects and programs with other appropriate organizations and groups to improve efficiency, ensure consistency, and avoid duplication of effort.
2. The Parties agree to cooperatively identify and pursue funding opportunities for ground water quality education.
3. The Parties may share fiscal responsibilities to conduct coordinated educational programs.
4. The Parties will participate in and support the Information and Education Subcommittee of the Agricultural Ground Water Quality Coordination Committee.
5. The Parties will identify a point of contact to coordinate ground water education activities.
6. The Parties agree to participate in and to provide educational information to groups such as Ground Water Quality Management Plan committees and drinking water protection groups.

### D. RESOURCE AND FUNDING COORDINATION

The Parties will work cooperatively to define the needs and prioritize the ground water protection activities of the state. The parties will leverage existing resources and cooperatively work together to identify potential funding to address these needs.

1. Examples of existing and potential future funding include:
  - a) Federal Funding Sources: Clean Water Act Sections 319, 104, and 106, potential EPA discretionary funds, Conservation Resource Enhancement Program ("CREP"), USDA Farm Bill, Homeland Security (vulnerability related), Safe Drinking Water Well Head 10% Set-aside;
  - b) State Funding Sources: State General Funding;
  - c) Local Funding Sources: Consider opportunities similar to user fees for Ground Water Protection Districts (i.e., Northern Idaho example); and
  - d) Private Funding Sources: Consider potential sources such as the Nature Conservancy, Idaho Ground Water Appropriators, Idaho Water Districts, and other water related districts (e.g., Ground Water Districts).

2. Resource coordination examples include:

a) State Agency Coordination: MOUs and Agreements (some examples include):

- Memorandum of Understanding Between DEQ and the Health Districts
- The Idaho Dairy Pollution Prevention Initiative Memorandum of Understanding
- The Idaho Beef Cattle Environmental Control Memorandum of Understanding
- Appendix to the Memorandum of Understanding Implementing the Nonpoint Source Water Quality Program in the State of Idaho Specifying Implementation of the Agricultural Pollution Abatement Plan.

b) Other Coordination: ISCC coordination with IASCD, and the technical assistance MOU between ISCC, Natural Resource Conservation Service ("NRCS") and IASCD.

E. VULNERABLE AREAS

1. The Parties will coordinate and solicit input from each other when developing ground water susceptibility/vulnerability projects and related GIS data layers. The appropriate lead agency will coordinate ground water susceptibility and vulnerability studies.
2. Before defining/delineating areas based on vulnerability, the Party defining or delineating the area will solicit input from the other Parties.
3. The Parties will develop comprehensive strategies, recommendations, policies, plans, and tools relative to land use activities in vulnerable and/or susceptible areas. These efforts will be in cooperation with appropriate local governments.

F. DEGRADED GROUND WATER AND SOURCE WATER AREA ACTIVITIES

1. DEQ, in coordination with the Ground Water Monitoring Technical Committee, will delineate and prioritize degraded ground water areas in the state.
2. Source water assessment and delineation information developed by DEQ will be available to agencies upon request.
3. The Parties will develop and implement comprehensive strategies, recommendations, policies, plans, and tools relative to land use activities in degraded ground water and source water protection areas. These efforts will be in cooperation with appropriate local governments.

G. GROUND WATER BEST MANAGEMENT PRACTICES ("BMPs")

1. For those programs which the Parties have jurisdiction over ground water BMPs, the Parties will keep each other apprised of any significant new ground water BMP developments or significant BMP modifications.

2. The Parties will work with other managing agencies which have jurisdiction over BMPs to ensure the BMPs adequately protect ground water quality.
3. The Parties will disseminate copies and summary information pertaining to available ground water BMPs.
4. The Parties will participate in and support the activities of the Agricultural Ground Water Coordination Committee, Agricultural BMP Technical Committee, and the Agricultural BMP Effectiveness Subcommittee as described in the GWQP and as outlined in the Agricultural Pollution Abatement Plan for the State of Idaho. This support shall consist of:
  - a) Participation in the development and improvement of agricultural component practices;
  - b) Participation in the quantifiable performance evaluations of agricultural BMP implementations, adoption or rejection of component practices, and identification of sources for BMP cost sharing and incentives; and participation in the coordination and implementation of the agricultural BMP Feedback Loop.
5. The Parties will participate in and support, as appropriate, BMP development for the prevention activities listed in Section II Prevention of the GWQP.

#### H. REGULATIONS/RULES/STANDARDS

1. The Party initiating a rule change or modification to the rules referenced in Appendix A will notify and provide an opportunity for the other Parties to meet and provide comments at an early stage of draft development. As appropriate, parties will participate in negotiated rulemaking.
2. The Party developing a new rule pertaining to or potentially impacting ground water quality will notify and provide an opportunity for the other Parties to meet and provide comments at an early stage of draft development.
3. The Parties may discuss needs for new rule development pertaining to ground water quality protection.

#### I. SPECIAL STUDIES/EVALUATIONS

Where appropriate, the Parties will engage in cooperative studies or evaluations, using staff resources from all appropriate Party agencies or outside agencies to prepare special reports as deemed necessary to respond to contamination events or complaints requested by 1) the Governor, 2) the Legislature, 3) agency directors, 4) local elected officials, or 5) other sources.

J. PLANNING AND IMPLEMENTATION

1. Each Party shall develop its own strategic plan to recognize and to take into account the proposed plans and actions of the other Parties. The Parties will focus on both the long-term (2 to 5 years) as well as the shorter term (1 to 2 years) aspects of planning.
2. The Parties will coordinate ground water related basin or watershed planning and implementation activities. These activities include but are not limited to: Ground Water Quality Management Plans ("GWQMPs"), Pesticide Management Plans ("PMPs"), Soil Conservation District BMP projects, 319 plans and projects, Drinking Water Protection Plans ("DWPPs") and implementation activities, and coordination with other water quality planning and implementation efforts such as Total Maximum Daily Load ("TMDL") implementation.
3. Planning and implementation activities shall be consistent with the State Water Plan, the GWQP, and the Idaho Agricultural Pollution Abatement Plan.

K. MEETINGS

1. The Parties will participate in biannual meetings to discuss implementation of this agreement. The responsibility for preparing agendas and chairing meetings will be rotated among the Parties. Additional contributing personnel, such as representatives from other agencies or interest groups, shall be invited to these meetings when agenda items address areas where non-signatory parties have significant responsibility, involvement or interest.

The meetings described above may address:

- a) Cooperative agreement planning and implementation issues.
  - b) Additional strategies and goals for implementing the GWQP.
  - c) Work items generated from agency coordination meetings.
  - d) Summary of results of monitoring projects and implementation activities from each agency.
  - e) Other items as necessary.
2. Additional meetings between project/program personnel and/or management will be routinely held as needed to ensure adequate implementation of this Cooperative Agreement. Minutes or summaries of significant meetings will be distributed to the appropriate Party management representatives.



#### **L. PROGRAM COORDINATION**

1. The Parties will coordinate ground water related programs, especially those pertaining to permit and approval activities (see Appendix A: Agency Authorities, Roles, and Responsibilities), to provide a consistent and effective approach to protecting the State's ground water, avoid duplication of efforts, reduce the potential for ground water contamination, and ensure that existing and projected future beneficial uses of ground water and interconnected surface waters are identified and protected. This will include continued interaction among the Parties' programs related to ground water quality protection.

#### **M. MANAGEMENT OF COMPLAINTS AND REQUESTS**

1. A complaint or request received by any Party, which pertains to a responsibility of one of the other Parties, will be forwarded within one working day to the responsible Party. Any Party receiving a telephone complaint or request will immediately refer the caller to the appropriate Party and notify the Party that a referral has been made. All complaints and requests received by letter will be forwarded to the appropriate Party by fax, e-mail, or mail. Information forwarded will include date and time of the complaint or request and other pertinent information.
2. When requested, the responsible Party will inform the Party that received the initial complaint or request of a particular action taken.
3. In referring a complaint or request, the Party initially contacted will not commit the responsible Party to a particular action.

### **IV. AGREEMENT ADDITIONS**

Agency program managers, with the approval of the Parties' Directors, may develop additional agreement items or implementation details to be added to the text of this document or as an appendix.

### **V. SIGNATORY PARTIES**

State and public agencies may enter into interagency cooperative agreements under authority of Title 67, Chapter 23, Idaho Code.

This agreement replaces the Idaho Ground Water Protection Interagency Cooperative Agreement of 1996. This agreement may be amended as necessary through mutual agreement of the Parties.



Idaho Ground Water Protection Interagency Cooperative Agreement  
January 2008

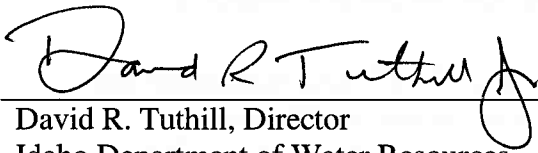
This agreement, when accepted by each agency, will be effective on the date of the last signature.



Toni Hardesty, Director  
Department of Environmental Quality

1/30/08

Date



David R. Tuthill, Director  
Idaho Department of Water Resources

2/14/08

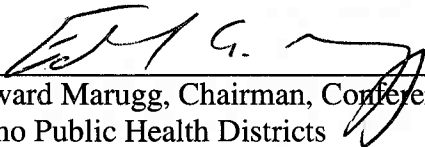
Date



Celia R. Gould, Director  
Idaho Department of Agriculture

2/13/08

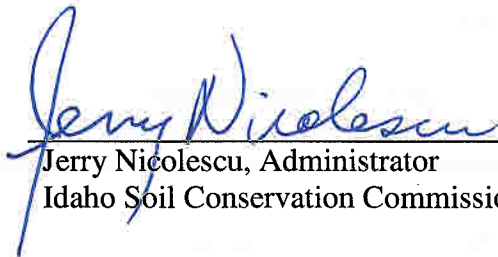
Date



Edward Marugg, Chairman, Conference of District Directors  
Idaho Public Health Districts

2/5/08

Date



Jerry Nicolescu, Administrator  
Idaho Soil Conservation Commission

2/13/08

Date

## **APPENDIX A: AGENCY AUTHORITIES, ROLES, AND RESPONSIBILITIES**

### **IDAHO GROUND WATER PROTECTION INTERAGENCY COOPERATIVE AGREEMENT**

Please note that agency authorities, roles, and responsibilities are subject to change as a result of changes to State and Federal law.

#### **I. DEPARTMENT OF ENVIRONMENTAL QUALITY (“DEQ”)**

The DEQ, under the Environmental Protection and Health Act (EPHA) is responsible for “the general supervision of the promotion and protection of the life, health, and environment of the people of the state” (Title 39, Chapter 1, Idaho Code). This includes the authority to formulate and recommend rules to the Idaho Board of Environmental Quality as necessary, issue licenses and permits, conduct inspections and investigations, and initiate enforcement actions as prescribed by law and rules and regulations in protection of the environment, including ground water.

The Ground Water Quality Protection Act specifies additional DEQ authority directly related to the protection of ground water quality including: “DEQ is designated as the primary agency to coordinate and administer ground water quality protection programs for the state” and “DEQ has the responsibility for collecting and monitoring data for water quality management purposes” (Title 39, Chapter 1, Idaho Code).

DEQ is the lead state agency for the development and implementation of a State Source Water Protection Program under the Federal Safe Drinking Water Act and as designated by the governor of Idaho. Specific authority related to ground water protection is granted through the following sections of Idaho Code and implementing rules:

- A. Title 39, Chapter 1, Idaho Code and IDAPA 58, Title 01, Chapter 02 (Water Quality Standards) give DEQ authority for general surface water and ground water protection, and the regulation of petroleum storage tank releases.
- B. Title 39, Chapter 1, Idaho Code and IDAPA 58, Title 01, Chapter 03 (Individual/ Subsurface Sewage Disposal, give DEQ authority to regulate on-site sewage disposal systems.
- C. Title 39, Chapters 44 and 58, Idaho Code and IDAPA 58, Title 01, Chapter 5 (Hazardous Waste) give DEQ authority to regulate hazardous wastes.
- D. Title 39, Chapters 1, 65 and 74, Idaho Code and IDAPA 58, Title 01, Chapter 6 (Solid Waste Management Rules and Standards) give DEQ authority to regulate solid wastes.

- E. Title 37, Chapter 21, Idaho Code; Title 39, Chapter 1, Idaho Code and IDAPA 58, Title 01, Chapter 08 (Public Drinking Water Systems) give DEQ authority to regulate public drinking water systems.
- F. Title 39, Chapter 1, Idaho Code and IDAPA 58, Title 01, Chapter 11 (Ground Water Quality Rules) give DEQ authority to protect ground water.
- G. Title 39, Chapter 1, Idaho Code and IDAPA 58, Title 01, Chapter 13 (Ore Processing by Cyanidation) give DEQ authority to regulate ore processing by cyanidation.
- H. Title 39, Chapter 1, Idaho Code and IDAPA 58, Title 01, Chapter 16 (Wastewater Rules) give DEQ the authority to review plans for wastewater treatment facilities and sludge usage.
- I. Title 39, Chapter 1, Idaho Code and IDAPA 58, Title 01, Chapter 16 (Wastewater Rules), Section 600, give DEQ the authority to approve ground water monitoring programs for managed recharge projects by land application. If the water intended for recharge is treated wastewater, including Class A effluent, then the project is subject to the Rules for the Reclamation and Reuse of Municipal and Industrial Wastewater (IDAPA 58.01.17).

**DEQ Roles and Responsibilities (related to ground water protection):**

- 1. Work cooperatively with federal, state and local entities to implement the Idaho Ground Water Quality Plan (1996).
- 2. Coordinate integration of the Agricultural Chemical Ground Water Protection Program for Idaho (1996) and the Idaho State Pesticide Management Plan for Ground Water Protection (2001).
- 3. Implement Surface Water Program: monitoring and TMDL implementation.
- 4. Implement Ground Water Program Activities:
  - Monitoring projects and follow up to detections,
  - Nutrient-Pathogen evaluations,
  - CAFO site advisory team participation,
  - Degraded ground water area identification,
  - Utilize the Policy for Addressing Degraded Ground Water Quality Areas (Policy No. PM00-4) for identifying, prioritizing, planning and developing implementation management strategies to establish Ground Water Quality Management Plans with local input,
  - Review and approval of monitoring plans for aquifer recharge projects by land application,
  - Prepare technical reports for ground water investigations.

5. Implement Source Water Protection Program: Source Water Assessment (“SWA”) Reports, Drinking Water Protection Plans (“DWPP”), Drinking Water Protection (“DWP”) Projects, agency coordination, and facilitating implementation of DWPPs.
6. Implement Wastewater Program: centralized onsite system reviews and approvals, wastewater reuse permitting, and wastewater treatment plan reviews and approvals.
7. Implement Loan Program: Drinking Water Planning & Construction Loans, Wastewater Planning & Construction Loans, Nonpoint Source Management Program (319 Grant Program).
8. Implement Drinking Water Program: Idaho’s Safe Drinking Water Program, regulates and enforces state drinking water standards, assists public water systems (PWS) with compliance, conducts sanitary surveys, and reviews public water system plans and specifications.
9. Implement Hazardous Waste Program: RCRA, Idaho National Laboratory (“INL”), permitting.
10. Implement Remediation Program: Underground Storage Tank (“UST”) and Leaking Underground Storage Tank (“LUST”) program activities, Brownfields, solid waste site approval related activities, emergency response, and ground water related remediation efforts.
11. Implement Mining Program: ore processing by cyanidation permitting.
12. Implement DEQ pollution prevention programs.
13. Coordinate with ISDA regarding dairies and beef cattle feeding operations and take actions regarding water quality at such facilities consistent with the Dairy MOU and the Beef Cattle Feeding Operation MOU and the DEQ authorities set forth above.

## **II. IDAHO STATE DEPARTMENT OF AGRICULTURE (“ISDA”)**

The ISDA, under the Ground Water Quality Protection Act, is responsible for, “regulating the use of pesticides and fertilizers and for licensing applicators,” relating to ground water (Title 39, Chapter 1, Idaho Code). ISDA is the lead agency, and has primacy, for the implementation and enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act (“FIFRA”) in the state. This includes lead agency role over the development and implementation of the Pesticide Management Plan (“PMP”) (formerly the State Management Plan for pesticides) for ground water protection. ISDA is also

responsible for implementing the dairy and beef confined animal feeding operation (CAFO) state laws and rules.

Specific authorities related to ground water quality protection are granted through the following sections of Idaho Code and implementing rules:

- A. Title 22, Chapter 6, Idaho Code and IDAPA 02, Title 06, Chapter 12, give ISDA authority to register all fertilizers used within the state and authority over the use, handling, transportation, storage, distribution and disposal of fertilizers and their containers.
- B. Title 22, Chapter 34, Idaho Code and IDAPA 02, Title 03, Chapter 03, give ISDA authority to register all pesticides used within the state; authority over the use, handling, transportation, storage, distribution and disposal of pesticides and their containers; and authority to license applicators of such pesticides.
- C. Title 22 Chapter 34, Idaho Code and IDAPA 02 Title 03, Chapter 01 give ISDA authority to respond to pesticide detections in the ground water.
- D. Title 22, Chapter 34, Idaho Code and IDAPA 02, Title 03, Chapter 03, give ISDA authority to regulate irrigation systems which are utilized for the application of agricultural chemicals and fertilizers.
- E. Title 37, Chapters 3 and 4 Idaho Code, and IDAPA 02 Title 04 Chapters 04-14 give ISDA the authority to require and issue permits to dairies to sell milk for human consumption. Section 39-118, Idaho Code transfers the dairy waste construction approval process from DEQ to ISDA. Under Title 37, Chapter 4, Idaho Code; and IDAPA 02, Title 04, Chapter 14, ISDA is also responsible for approval of the design, construction, and location of dairy waste management systems.
- F. Title 22, Chapter 49, Idaho Code, and IDAPA Title 02, Chapter 04, Section 15 gives ISDA the authority to govern the design, function, and management practices of waste systems on beef cattle animal feeding operations.
- G. Title 67, Chapter 65, Idaho Code and IDAPA Title 02, Chapter 04, Section 18 gives ISDA the authority to lead the CAFO Site Advisory Team, which is tasked with evaluating the suitability of the location for proposed or expanding confined animal feeding operations. The CAFO Site Advisory Team provides "suitability determinations" of proposed livestock operations based on environmental risk. The suitability determination is provided to the county for its consideration when deliberating conditional use or livestock confinement operation permits.
- H. Title 22, Chapter 46, Idaho Code gives ISDA the authority to require and issue operating permits for commercial fish hatcheries.

**ISDA Roles and Responsibilities (related to ground water protection):**

1. Implement the EPA Secondary Containment Rules 40 CFR Parts 9, 156 and 165 Pesticide Management and Disposal; Standards for Pesticide Containers and Containment and continue to finalize the state Secondary Containment Rules.
2. Implement the Agricultural Ground Water Quality Protection Program for Idaho adopted in 1996. Chair the Agricultural Ground Water Quality Coordination Committee and the Education Subcommittee.
3. Regulate pesticide use in Idaho.
4. Implement ISDA's Water Quality Ground Water Monitoring Program including the local and regional ground water monitoring for nutrients, pesticides, animal waste impacts, and general ground water quality associated with agricultural impacts.
5. Implement ISDA's Pesticides and Water Quality Program: implement the Idaho State Pesticide Management Plan ("PMP") for Ground Water Protection, monitor ground water for pesticides, applicator education, potential pesticide and ground water specific rules, Best Management Practices and regulation of specific active ingredients.
6. Regulate Dairy and Beef CAFOs: Dairy and Beef CAFOs are required by state law and rule to be inspected to ensure that state and federal environmental regulations are not violated and to protect state natural resources including surface and ground water. Coordinate with DEQ and other groups regarding the Dairy MOU and the Beef Cattle Animal Feeding Operations MOU.
7. Implement ISDA's Water Quality - CAFO Program: ISDA is the lead agency for regulating Dairy and Beef CAFOs. ISDA hydrogeology staff conduct water quality evaluations related to facilities with potential water quality concerns and in response to complaints.
8. Lead the CAFO Site Advisory Team: Pursuant to the Site Advisory Team Suitability Determination Act. ISDA's Water Quality Bureau and engineering and technical services staff serve on a site advisory team to provide hydrogeological expertise and assessment to counties who request assistance in siting CAFOs.
9. Implement ISDA's Water Quality Implementation and Education Program: Implementing ground water protection and education components of the Agricultural Ground Water Quality Protection Program for Idaho adopted in 1996 and the Idaho Pesticide Laws and Rules.



10. Regulate the use, handling, transportation, storage, distribution and disposal of fertilizers and their containers.
11. Support the Idaho Soil Conservation Commission (“ISCC”) and the Soil Conservation Districts (“SCDs”) with the agricultural TMDL process and providing water quality monitoring through the Agricultural Total Maximum Daily Load (“TMDL”) Implementation Monitoring Program. This monitoring program is coordinated by ISDA, with the ISCC and the IASCD.
12. Facilitate proper pesticide disposal through the Pesticide Disposal Program (“PDP”): ISDA conducts pesticide disposal collections throughout Idaho to assist growers, homeowners, dealers and applicators with disposal of unusable pesticides. PDP was initiated to provide an environmentally conscientious method by which individuals could dispose of expired or otherwise unusable pesticides.
13. Facilitate the proper disposal of empty containers through the Pesticide Container Recycling Program (“CROP”): CROP is the plastic pesticide container recycling program. This program is a joint effort between the Idaho Crop Production Association (“IPCA”), Idaho Agricultural Aviation Association (“IAAA”), and other agricultural industries, professional lawn care companies and the ISDA. Its purpose is to recycle non-degradable plastic pesticide and crop production containers rather than have them burned, illegally dumped, or placed in a landfill.
14. Regulate Pesticide Containers – Storage: The ISDA is authorized to enforce rules safeguarding the environment by ensuring that pesticide containers are handled, transported, displayed, and stored properly.
15. Implement the Pesticide Enforcement Program: ISDA ensures compliance with the pesticides and chemigation laws and associated rules and works with the EPA to ensure compliance with FIFRA.
16. Safeguard ground and surface water by requiring those who apply fertilizers or pesticides through any type of irrigation system to be licensed applicators. Chemigators are also required to use specified chemigation equipment for each method of irrigation

### **III. IDAHO DEPARTMENT OF WATER RESOURCES (“IDWR”)**

The IDWR has statutory responsibility for administering the appropriation and allotment of surface and ground water resources of the state, including geothermal resources, and to protect the resources against waste and contamination, Title 42, Chapter 2, Idaho Code. The IDWR Director is empowered to conduct administration and enforcement “in the



effectuation of the policy of the state to conserve its ground water resources” and to regulate ground water development activities.

Title 42, Chapter 18, Section 42-1805 states that:

In addition to other duties prescribed by law, the Director of the Department of Water Resources shall have the following powers and duties

...

2. To prepare a present and continuing inventory of the water resources of this state, ascertain means and methods of conserving and augmenting these and determine as accurately as possible the most effective means by which the water resources may be applied for the benefit of the people of the state.
3. To conduct surveys, tests, investigations, research, examinations, studies, and estimate costs relating to availability of unappropriated water, effective use of existing supply, conservation, storage, distribution and use of water.
4. To prepare and compile information and data obtained and to make the same available to interested individuals or agencies.
5. To cooperate with and coordinate activities with the Director of the Department of Environmental Quality as such activities relate to the functions of either or both departments concerning water quality. Such cooperation and coordination shall specifically require that:
  - a) The Director meet at least quarterly with the Director of the Department of Environmental Quality and his staff to discuss water quality programs. A copy of the minutes of such meeting shall be transmitted to the governor;
  - b) the Director transmit to the Director of the Department of Environmental Quality reports and information prepared by him pertaining to water quality programs, and proposed rules and regulations pertaining to water quality programs;
  - c) the Director shall make available to the Director of the Department of Environmental Quality and the Director of the Department of Environmental Quality shall make available to the Director all notices of hearings relating to the promulgation of rules and regulations relating to water quality, waste discharge permits, and stream channel alteration, as such directly affect water quality, and notices of any other hearings and meetings which relate to water quality.

...

The Idaho Water Resource Board ("IWRB") was established as the constitutional water agency within IDWR. The IWRB was tasked to progressively formulate, adopt and implement a comprehensive state water plan for conservation, development, management, and optimum use of all unappropriated water resources waterways of the state, in the public interest. The State Water Plan adopted in 1976 as a policy plan, was updated and readopted in 1982, 1986, 1992, and 1996. Legislation passed in 1988 directed the IWRB to develop plans based on river basins, aquifers, or other geographic areas, for the conservation, development, management and optimum use of all unappropriated waters. The plans have specific policies, rationales, and implementation items that now have the force of law, which are the basis for many IDWR priorities and action items below.

Specific authorities related to ground water quality protection are granted through the following Sections of Idaho Code and implementing rules:

- A. Title 39, Chapter 1, Section 39-120, Idaho Code (Ground Water Quality Protection Act) states that IDWR has the, "responsibility to maintain the natural resource geographic information system for the state and is the collector of baseline data for the states water resources." Title 67, Chapter 65 called for the creation of a Ground Water Quality Council that was responsible for developing a Ground Water Quality Plan and a Ground Water Quality Monitoring Program (Statewide Program). The IDWR is responsible for the overall administration of the Statewide Program and for analyzing the data and writing interpretative reports. The baseline data collected is stored in the ground water quality database and the Environmental Data Management System, both comprehensive data systems that are accessible to the public. This is an integral part of the ground water protection program.
- B. Title 42, Chapter 2, Idaho Code and IDAPA 37, Title 03, Chapter 09 give IDWR authority to regulate the construction of wells, including Low Temperature Geothermal wells.
- C. Title 42, Chapter 2, Idaho Code and IDAPA 37, Title 03, Chapter 10 give IDWR authority to require licensing of well drillers within the state and the collection of well driller reports.
- D. Title 42, Chapter 2, Idaho Code and IDAPA 37, Title 03, Chapter 11 give IDWR the authority to appropriate through permits the rights to beneficial uses of waters of the state.
- E. Title 42, Chapter 16, Idaho Code gives IDWR authority to regulate the construction and operations of artesian wells.
- F. Title 42, Chapter 39, Idaho Code and IDAPA 37, Title 03, Chapter 3 provide that ground water of the state is a public resource which must be protected against unreasonable contamination or deterioration of quality to preserve such waters for

diversion to beneficial use and give IDWR authority to regulate the disposal of wastewater through injection wells.

- G. Title 42, Chapter 40, Idaho Code and IDAPA 37, Title 03, Chapter 04 give IDWR the authority to regulate the drilling, operation, maintenance, and abandonment of all geothermal wells in the State. The IDWR's authority also includes regulatory jurisdiction over other related operations and environmental hazards pertaining to the exploration and development of geothermal resources. The Director may consider the adequacy of measures proposed to safeguard subsurface, surface, and atmospheric resources from unreasonable degradation, and especially to protect ground water aquifers and surface water sources from contamination which would render such water of lesser quality than it would have had but for the contamination.
- H. Title 42, Chapter 42, Idaho Code gives IDWR authority to issue a permit for the appropriation and underground storage of unappropriated waters of the state. Policy V-C of the Idaho Ground Water Quality Plan holds that "The policy of the state of Idaho is that any program designed specifically for the artificial recharge of ground water, existing or proposed, be consistent with the policies and management objectives for water quality and quantity as defined in the Idaho Ground Water Quality Plan and the Idaho State Water Plan."

**IDWR Roles and Responsibilities (related to ground water protection):**

1. Regulate the construction, modification and abandonment of wells, including artesian wells, geothermal wells and underground injection wells.
2. Ensure compliance with driller licensing standards and rules, and collection of well driller reports.
3. Coordinate the Statewide Ground Water Quality Monitoring Network, including selection of representative replacement wells, and analysis of data.
4. Coordinate the Statewide Ground Water Level Monitoring Network, including selection of representative replacement wells and collection of water level observation data.
5. Administer the Managed Recharge Program.
6. Administer the Environmental Data Management System ("EDMS") as per the Environmental Protection and Health Act (Idaho Code 39-120) , including coordination with data provider agencies to load and publish ground water quality data and make it available to the public.
7. Process applications for permits to appropriate water and applications to transfer water rights.

8. Monitor ground water usage through the Water Measurement Program.
9. Maintain ground water models and model data to evaluate the potential impact of ground water pumping on surface water availability.
10. Perform aquifer studies to characterize ground water aquifers and understand how aquifers interact with the environment and development.
11. Maintain geospatial information for the state's natural resources.
12. CAFO site advisory team participation.

#### **IV. IDAHO PUBLIC HEALTH DISTRICTS (“HEALTH DISTRICTS”)**

The Health Districts were created by the Idaho Legislature in 1970 to ensure that essential public health services were available to protect the health of all citizens of the state, no matter how large the county's population. Each of the seven Health Districts is governed by a Board of Health composed of seven to eight members appointed by the county commissioners from that district. Each Board of Health defines the public health services to be offered in its district based on the particular needs of the local populations served. They also employ a director to oversee the daily operations of the district.

- A. Title 39, Chapter 4, Idaho Code establishes the Health Districts, and states in part:  
“The various health districts...are not a single department of state government unto themselves, nor are they a part of any of the twenty (20) departments of state government authorized by [the]...Idaho constitution...It is legislative intent that the health districts operate and be recognized not as state agencies or departments, but as governmental entities whose creation has been authorized by the state, much in the manner as other single purpose districts.”
- B. Title 39, Chapter 4, Idaho Code establishes that each of Idaho's seven health districts be governed by a district board of health. Section 39-414 gives the powers and duties to the district Board of Health that enable it “To do all things required for the preservation and protection of the public health and preventative health, and such other things delegated by the director of the state Department of Health and Welfare or the director of the Department of Environmental Quality.”

#### **Health Districts' Roles and Responsibilities (related to ground water protection):**

1. Issue permits for individual subsurface sewage disposal systems (IDAPA 58.01.03).

2. Certify the availability of adequate drinking water and sewer facilities by lifting sanitary restrictions for subdivisions (Title 50, Chapter 13, Idaho Code); per Memorandum of Understanding with DEQ.
3. Provide well disinfection and other safety information to owners of private wells.
4. Perform mortgage surveys upon transfer of properties to assess the status of subsurface sewage disposal systems and private wells.

## **V. IDAHO SOIL CONSERVATION COMMISSION (“ISCC”)**

The ISCC was created by the Idaho Legislature in 1939. The ISCC has the authority to organize Soil Conservation Districts (“SCDs”) and to provide assistance and guidance to the supervisors of SCDs in order to enhance their capabilities in carrying out effective local conservation programs. The ISCC is composed of five members appointed by the Governor for five-year terms, and administers the 51 SCDs throughout Idaho. The ISCC operates through the local SCDs, and does not have regulatory authority or licensing authority over water quality or pollution control.

- A. Title 22, Chapter 27, Idaho Code gives ISCC the authority to organize districts.
- B. Title 39, Chapter 36, Idaho Code names ISCC as the designated agency for grazing activities and for agricultural activities.

### **ISCC Roles and Responsibilities (related to ground water protection):**

1. Implement the Idaho Agricultural Pollution Abatement Plan for private and state agricultural lands in support of the Agricultural Ground Water Quality Protection Program. Chair the Agricultural Plan BMP Technical Committee and BMP Effectiveness Technical Subcommittee.
2. Provide technical assistance to owners and operators of private lands for the planning, implementation, and evaluation of agricultural BMPs for ground water.
3. Provide technical and administrative assistance to SCDs in carrying out their authorities and programs.
4. Review SCD workload inventories and analyses and five-year business plans. Recommend financing and legislation necessary to apply needed programs and practices, including those that affect ground water quality.
5. Organize and support local SCDs in addressing state and local natural resource concerns. Assist SCDs in bringing together public outreach activities and technical/financial resources to assist in meeting ground water goals.

6. Administer the Agricultural Water Quality Cost-share Program for Idaho.
7. Administer the Resource Conservation and Rangeland Development Program (RCRDP) for loan distribution.
8. Lead the Idaho OnePlan effort as the primary computer-based conservation planning process for all natural resource concerns, including ground water.
9. Develop the agricultural components of TMDL watershed implementation plans in consultation with SCDs and Watershed Advisory Groups. Insure integration of ground water quality issues and solutions into TMDL watershed planning process.
10. Implement ISCC strategy for addressing ground water pollution related to agriculture within Idaho's Degraded Ground Water Quality Areas.
11. Provide technical assistance for developing agricultural components of Ground Water Quality Management Plans, and/or Source Water Protection Plans.